

SERVICE DATE – AUGUST 11, 2015

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. AB 1068 (Sub-No. 3X)

MISSOURI CENTRAL RAILROAD COMPANY—ABANDONMENT EXEMPTION—IN
CASS, PETTIS, BENTON, MORGAN, MILLER, COLE, OSAGE, MARIES, GASCONADE,
AND FRANKLIN COUNTIES, MO.

Decided: August 10, 2015

Missouri Central Railroad Company (MCRR) filed a verified notice of exemption under 49 C.F.R. pt. 1152 subpart F—Exempt Abandonments to abandon approximately 144.3 miles of rail line in two segments: (1) between mileposts 263.5 and 262.906 near Pleasant Hill, in Cass County, Mo.; and (2) between milepost 215.325 near Windsor, in Pettis County, Mo., and milepost 71.6 near Beaufort, in Franklin County, Mo.¹ MCRR made the necessary certifications, including that no local traffic had moved over the line for at least two years, and notice of the exemption was served and published in the Federal Register on December 8, 2014 (79 Fed. Reg. 72,757). The exemption became effective on January 7, 2015.

The Board's Office of Environmental Analysis (OEA) served an environmental assessment (EA) in this proceeding on December 12, 2014. In its Final EA, dated January 5, 2015, OEA concluded that the proposed abandonment would have no potential for significant environmental impacts if four conditions were imposed. On January 6, 2015, the Board served a decision adopting all of OEA's analysis and conclusions and imposing the four environmental conditions recommended in the Final EA.² These conditions required MCRR to: (1) consult with the U.S. Army Corps of Engineers (Corps) prior to initiating salvage, and comply with the reasonable requirements of the Corps; (2) consult with the U.S. Environmental Protection Agency or the Missouri Department of Natural Resources, whichever has delegated authority to administer the federal National Pollution Discharge Elimination System (NPDES) Program, prior to initiating salvage, and comply with the reasonable NPDES requirements; (3) contact the U.S. Fish and Wildlife Service (USFWS) prior to beginning salvage, and consult with OEA and USFWS to develop appropriate mitigation measures if potential impacts are identified; and (4) retain its interest in and take no steps to alter the historic integrity of all historic properties until completion of the Section 106 process of the National Historic Preservation Act.

¹ The notice that was served and published embraced Central Midland Ry.—Discontinuance of Service Exemption—in Cass, Pettis, Benton, Morgan, Miller, Cole, Osage, Maries, Gasconade, & Franklin Cntys., Mo., Docket No. AB 1070 (Sub-No. 3X).

² A corrected decision was served on January 7, 2015.

By decision served on February 26, 2015, the Board issued a notice of interim trail use, imposing trail use and public use conditions. The time to negotiate interim trail use was extended to February 21, 2016 in a decision served on August 10, 2015.

In a Supplemental Final EA dated July 28, 2015, OEA states that it received environmental comment letters in response to the conditions and has now determined that three of the four Board-imposed conditions have been satisfied and can be removed, and that two additional conditions should be imposed. Specifically, OEA states that the Corps commented in March 2015 that the proposed abandonment and discontinuance of service would not be subject to a Department of the Army permit if salvage occurs in the manner that MCRR has specified. OEA has therefore determined that no further consultation with the Corps is necessary and recommends that the first condition be removed.

Next, OEA states that USFWS concluded that the proposed abandonment and discontinuance of service may affect, but is not likely to adversely affect, two federally listed endangered species provided that no tree clearing or cutting occur between November 1 and March 31 for salvage activities along the abandonment right-of-way. USFWS concluded that, if that measure is taken, no further consultation is needed. Thus, OEA recommends that the third condition be removed, and that a new condition be imposed to address USFWS's temporal restriction on tree clearing and cutting.

OEA further states that it has negotiated a Memorandum of Agreement with the State Historic Preservation Office (SHPO) and MCRR to resolve any adverse effects to historic properties. That Memorandum was submitted to the Advisory Council on Historic Preservation. Because the filing of the Memorandum with the Advisory Council completes the Board's compliance responsibilities under Section 106 of the National Historic Preservation Act, OEA recommends that the Board remove the fourth condition pertaining to Section 106. However, OEA also recommends that the Board impose a new condition, consistent with a requirement in the Memorandum, to ensure that, if any cultural materials are encountered during the salvage process, MCRR will immediately cease all site work and contact the SHPO.

Based on OEA's recommendations, this proceeding will be reopened and the previously imposed first, third, and fourth conditions (relating to the Corps, USFWS, and Section 106, respectively) will be removed. Additionally, the two newly recommended conditions will be imposed. The second condition (relating to the NPDES) imposed in the decision of January 6, 2015, remains in effect.

As conditioned, this decision will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. The proceeding is reopened.
2. Upon reconsideration, the notice served and published in the Federal Register on December 8, 2014, exempting the abandonment of the line segments described above is subject to two new conditions. First, MCRR shall follow USFWS's requirement that no tree clearing or cutting occur for salvage operations between November 1 and March 31. Second, in the event that any unanticipated archaeological sites, human remains, funerary items, or associated artifacts are discovered during salvage activities, MCRR shall immediately cease all work and notify OEA, interested federally recognized tribes, and the SHPO. OEA will then consult with the SHPO, interested federally recognized tribes, MCRR, and other consulting parties, to determine whether appropriate mitigation measures are necessary. Additionally, the first, third, and fourth conditions imposed in the January 6, 2015 decision in this proceeding are removed.
3. This decision and notice is effective on its service date.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.